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JUNCKER'S POLITICAL COMMISSION AND AN EU IN CRISIS¹

John Peterson

University of Edinburgh

Politics/IR

15a George Square

Edinburgh EH8 9LD

Scotland

john.peterson@ed.ac.uk

Abstract

This article investigates the European Commission under the Presidency of Jean-Claude Juncker during a time of acute crisis in the European Union. It asks what it means for Juncker to preside over a 'political Commission', following his appointment as the so-called *Spitzenkandidat* of the centre-right after the 2014 European Parliament (EP) election. More generally, it considers what makes the Juncker Commission distinctive. We ask whether Juncker views his EP mandate as giving him license to head a Commission that is ambitious than those headed by his predecessor, José Manuel Barroso. We provide empirical raw material for theorising about the EU, particularly given the prominence of the new intergovernmentalism as a theoretical paradigm of European integration. We argue that it is time to redefine the term 'intergovernmental', especially given how the Commission has become more directly linked to and dependent on EU national capitals in a time of acute crisis.

Keywords: European Commission, Jean-Claude Juncker, new intergovernmentalism, *Spitzenkandidaten* system, José Manuel Barroso

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It comes as no surprise that many recent works on the European Union (EU) focus on 'crisis'.¹ By late 2015, George Soros (2015: 4) claimed that the EU faced five crises – migration, the euro, Greece, Ukraine, and the United Kingdom's (UK) referendum on continued membership. By mid-2016, the European Commission under Jean-Claude Juncker neared the halfway point of its mandate. Given the Commission's vast policy responsibilities and the concurrence of so many crises, it was hardly encouraging that its President was a 'confirmed technocrat' whose appointment 'did not move the EU far from business as usual, even in a time of extraordinary tension over the euro crisis and the EU's future' (McNamara 2015a: 34; see also McNamara 2015b). The choice of Juncker reflected – in McNamara's (2015a: 34) view of what others have called 'leaderless Europe' (Hayward 2008) – 'the EU's tradition of banality and deracination'.

This portrait may have fit the EU of the past, but it is challenged not least by Juncker's appointment, the nature of his Commission as well as other appointments to top EU posts. Juncker's experience at the highest political levels – Prime Minister of Luxembourg for 18 years and chair of the Eurogroup of Eurozone Finance Ministers for 8 – defies the description 'technocrat'. Whether the process by which Juncker was chosen reflected only 'small steps...toward a true electoral contest for the European Commission President' (McNamara 2015: 34) is at least contestable. Juncker was the first Commission President selected under the *Spitzenkandidaten* system, whereby the European Parliament's (EP) political groups nominated candidates with EU member governments obliged by the Lisbon Treaty to take account of the results of EP elections in choosing a President.² Juncker's Commission was also the first to be structured on a two-tier basis, with a group of Vice-Presidents (7 plus Juncker himself) overseeing the work of 20 other Commissioners. Finally, Juncker's declaration that his would be a 'political Commission' raised questions about its role at a time when austerity stirred strong anti-EU impulses, little consensus existed about the direction Europe needed to take, and Germany's political dominance seemed undeniable. Half of a 5 year Commission mandate provides a limited sample size from which to judge what it means to be a 'political Commission'. Still, we offer as complete an

investigation as is possible of how Juncker got the job, organised his College, and how it operates. Above all, we explore whether Juncker's designation of his as a different kind of Commission is a response to a new intergovernmentalism that (paradoxically) has seen EU member states embrace 'integration without surpanationalization' (Bickerton *et al* 2015: 39) and has revealed them to be 'deeply reluctant to cede further powers to the Commission' (Bickerton *et al* 2015: 5) since the 1992 Maastricht Treaty gave birth to today's European Union.

We begin by considering where the Commission stood when Juncker became President (section 1 below). The way in which the Juncker Commission was constructed and how it now operates are then investigated (section 2). We consider the multiple possible meanings of 'political Commission' (see section 3). The Commission's prospects (section 4) in an EU dominated by a 'seemingly hegemonic Germany' (Dinan 2015: 93) are then considered, particularly in light of the theoretical claims of the new intergovernmentalism. Our conclusion reflects on the fate of both the Commission and the EU amidst enormous political turbulence, and how theory might explain practice.

1. From Prodi to Barroso to Juncker

Debate about the Commission's standing has featured prominently in the EU research literature since the entire College of Commissioners resigned under Jacques Santer's Presidency in 1999 (see Hodson 2013; Kassim *et al* 2013: 130-50; Wallace and Reh 2015). What often goes unappreciated is how the Commission's weakness at that moment became a *shared* concern of all EU stakeholders. Two examples illustrate.

The first was the Berlin European Council's decision, just over a week after Santer's resignation and after 10 minutes of discussion, to appoint Romano Prodi, the first former Prime Minister of a large EU state (Italy) to become Commission President. Previously, Prodi had earned political respect for assembling a centre-left coalition that defeated Silvio Berlusconi's alliance in the 1996 Italian election.

His government then succeeded in restoring Italy's economic health to the point where it joined the Euro, a goal previously viewed as unreachable.

Prodi's subsequent tenure (1999-2004) as Commission President was hardly an unambiguous success. Officials who served under him rated his performance only marginally stronger than that of Santer (see Kassim *et al* 2013: 165). Still, Prodi's prioritisation of administrative reform of the Commission (Schön-Quinlivan 2011), with former UK Labour Party leader Neil Kinnock piloting root and branch change, endeared him to European leaders.³ Prodi also helped shift the debate on enlargement to the point where a previously hesitant European Council opened accession negotiation with no fewer than 12 applicant states. Whatever our verdict on Prodi, restoring the position of the Commission was widely-viewed as vital after Santer's fall.

Another example further illustrates how an effective Commission is considered a European public good. The proposal by the 2002-3 Convention of the Future of Europe (in its draft Constitutional Treaty) to reduce the size of the College to make it more efficient embraced an idea that originated in the 1979 Spierenburg report (see Kassim *et al* 2013: 208). A smaller College was viewed by Dirk Spierenburg – a former member of the High Authority of the European Coal and Steel Community (the Commission's precursor) - as less compartmentalised, with fewer, larger policy portfolios better coordinated. Spierenburg's injunction was subsequently ignored. Yet the size of the Commission became 'one of the most passionately debated' issues in all (5) intergovernmental conferences held to consider EU treaty change in the post-Maastricht period (Piris 2010: 226). The Treaty of Nice (2001) mandated that 'the number of Members of the Commission should be less than the number of Member States' once the EU had enlarged to 27 or more. Vaguely, the Treaty signalled that 'a rotation system based on the principle of equality' would then come into effect. The point was reached on 1st January 2007 with the Commission under the (first) Presidency of José Manuel Barroso (2004-14), Portugal's former Prime Minister. At the time, the need to find portfolios for new Commissioners

from Bulgaria and Romania led to the wisecrack that they would be assigned Christmas cards and car parks. As such, after the demise of the (2004) Constitutional Treaty, a new IGC (to negotiate what became the 2007 Lisbon Treaty) decreed that the College would be reduced to two-thirds the number of member states, again with a system of equal rotation. The cherished right of each state to send one of their own to Brussels, who could then appear in the national media and explain in their own language what the Commission and EU were doing, was thus sacrificed for the sake of a more efficient College.

These plans went awry when Ireland's 2008 referendum on Lisbon yielded a 'no'. A sticking point in the Irish debate was the end of its right – as a small state with a very local political culture – always to nominate a Commissioner. To coax an Irish 'yes', the European Council decided in December 2008 to abandon reducing the size of the College. Nearly 30 years after Spierenburg found a College (of 13) too big, the EU reverted to one Commissioner per member state, or a whopping 28 in Barroso's second Commission (2009-14).

The size of the Commission matters. First, the College decides by simple majority with one vote per Commissioner. In an enlarged EU, it became possible for decisions to be adopted by Commissioners from states comprising only 11.32 per cent of the Union's population. Commissioners from the six largest member states – with over 70 per cent of the Union's inhabitants – could be outvoted (Piris 2010: 226-7).⁴

Of course, the Commission rarely votes. Barroso boasted that no votes were needed in his first Commission and 'probably 5' in his second (quoted in Keating 2014a). Moreover, the EU's Treaties make clear the independence of Commissioners from their or any other member government. Once confirmed, Commissioners even take an oath of independence. Still, a College that for the first time had the same composition as all versions of the Council of Ministers led to fears of 'the Commission

falling into a sort of intergovernmentalism' (Piris 2010: 226), with its decisions – like those of the Council – the result of deals struck by agents of EU governments. Here, arguably, we find tangible evidence of the new intergovernmentalist claim that post-Maastricht EU governments frequently make institutional choices that 'limit further expansion of the powers of the Commission' (Bickerton *et al* 2015: 39), or at least constrain its autonomy.

An early assessment of enlargement's effect on the Commission asked whether the very *meaning* of 'intergovernmentalism' had to be rethought. Enlargement implied 'more complicated bargaining and coalition-building, which in itself might actually make the position of the Commission stronger' (Peterson 2008: 775). A Commission with – to put it benignly – one main access point per national capital might end up less autonomous but more integrated into the EU's institutional system.

Barroso's response to an enlarged College was to run a highly centralised Commission. Soon after his appointment, Barroso warned of the dangers of 'fragmentation' or 'Balkanisation' of the College (Kassim *et al* 2013: 166). He then then used his *cabinet* (of personal advisors) to keep a grip on the policy agenda. The role of the Secretariat-General - responsible for servicing the College, linking it to the permanent services (Directorates-General; DGs), and overseeing coordination – was transformed. In the past, the 'Sec-Gen' was a mostly neutral arbiter. Under Barroso it became almost an extension of the President's *cabinet* and enforcer of his agenda. When surveyed in 2008, a clear majority of Commission officials – nearly 60 per cent – agreed with the statement: 'The Secretariat-General is becoming more political and influential in the life of the Commission' (Kassim *et al* 2013: 194).

Yet, another possible illustration of new intergovernmentalist constraints was how Barroso's Commissions were judged as unambitious (see Hodson 2013). His claim that 'the basic legitimacy of our Union is the member states' tarred him with the brush of intergovernmentalism. As Juncker

replaced Barroso, a typical comment on the latter's legacy was: 'a period in which the Commission lost influence in the face of member states and failed to set the agenda' (Keating 2014a).

Barroso fought back and defended his record. The implementation of the Lisbon Treaty had been handled smoothly and given the Commission new powers in multiple policy areas, particularly Justice and Home Affairs. Coordination with the new permanent President of the European Council, Herman Van Rompuy, meant Barroso and his Commission were central players in the eurozone crisis, laying the groundwork for the European Stability Mechanism (a permanent crisis resolution fund of €500 billion) and the 'two pack' and 'six pack' sets of legislation that reformed EU economic governance. Barroso insisted '[w]e now have powers and competencies that our predecessors could not even dream of' (quoted in Keating 2014a). The list extended to surveillance (even rejection) of draft member state budgets, EU supervision of European banks, and execution of a new intergovernmental fiscal pact. One senior Commission official mused that Barroso's would 'end up viewed as [two] of the most successful Commissions in history. We almost lost our currency, our [EU] budget and banking sector. But a lot of crises got solved'.⁵

Finally, Barroso insisted that far more attention focused on who would replace him than Van Rompuy: 'That was the real debate about who was going to lead Europe. If the Commission was irrelevant, do you think all that debate would have taken place?' (quoted in Keating 2014a). Barroso was certainly right that choosing his successor provoked an intense political row. Judging where the Juncker Commission stands starts by considering how it was constructed.

2. Constructing the Juncker Commission

The nomination of Juncker via the *Spitzenkandidaten* system was, by itself, enough to politicise his Presidency as none ever before. The EP's political groups interpreted the Lisbon Treaty as a mandate to put forward candidates for the Commission's top job, and then for the European Council to choose

the *Spitzenkandidat* whose group won the 2014 EP election. Opposition to Juncker personally (too much of a 'federalist') and to the method by which he was chosen was led by the UK's David Cameron, under pressure from his increasingly eurosceptic Conservative party. Cameron seemed to find support from Germany's Angela Merkel, who initially agreed to consider other candidates ('anything is possible'⁶) and signalled that the prerogative of the European Council to choose the Commission President should be preserved. So did the premiers of Hungary and Sweden (and, by some accounts, the Netherlands).⁷

However, between European Council meetings in May and June 2015, Merkel endured a firestorm in Germany over her refusal to back Juncker. Much of the national press was indignant, with *Bild* (Germany's top-selling newspaper) complaining:

Europeans want Juncker as EU president. [The German candidate of the Socialist group, Martin] Schulz got the second best result. A third, who didn't stand for election, can't be allowed to get the job. That would turn democracy into a farce. You may get away with something like that in the GDR [East Germany] or in far-right banana republics. But not in the EU.

The influential philosopher Jürgen Habermas told *Frankfurter Allgemeine Zeitung* that if the European Council 'were to suggest someone else as a leading candidate, it would be a bullet to the heart of the European project. In that case you couldn't expect any citizen to ever involve themselves in a European election again'.⁸ Juncker hailed from the same political family as Merkel's own Christian Democratic Union (CDU), whose MEPs rallied in his support as did Merkel's domestic coalition partner, the Social Democrats. All pressures pointed one way. In swinging behind Juncker, Merkel poured scorn on Cameron's call to 'stand up' against an EP 'stitch up' and his linking of Juncker's appointment to the result of the foreseen UK referendum: 'we act in a European spirit...Threats are not part and parcel of that spirit'.⁹

Juncker was confirmed by a European Council vote of 26-2. Only Victor Orban, advocate of Hungary as ‘illiberal state’¹⁰ analogous to Russia or Turkey, voted with Cameron. By one interpretation, the large majority for Juncker – including the Swedish and Dutch Prime Ministers – reflected how the EU was German-led as never before. By another, it simply mirrored the in-built centre-right majority on the European Council that selected one of their own in Juncker, in perhaps yet another sign of member governments wishing to restrain the Commission along new intergovernmentalist lines. Even if the EP election had produced a different result, it would have been hard to see Schultz, a Socialist, chosen instead.¹¹

In any event, after the EP’s power grab and Juncker’s confirmation (by an EP vote of 422-250, with 47 abstentions), most member states made their own decisions about whom to nominate to the College with little input from Juncker. The College that emerged contained an abundance of former Prime or Foreign Ministers, but also others with little high level experience (see table 1). The list started with Federica Mogherini, chosen – also by the European Council – as the EU’s High Representative for the Foreign Affairs and Security Policy and Commission Vice-President. The choice was not uncontested, with many Central and Eastern European states considering Mogherini too pro-Russian (after Russia had annexed Crimea).¹² However, the Italian Prime Minister, Matteo Renzi, enjoyed an unassailable position after his (and Mogherini’s) party won 41 per cent of the vote in Italy’s 2014 EP election. Besides, Mogherini offered balance prioritised in any share-out of EU jobs, in terms of gender and large v. small states, as well as qualifications and competence, as she subsequently showed (see below).

TABLE 1 ABOUT HERE

Juncker designated the same number of Vice-Presidents as Barroso (7) but declared that they would work differently than in the past. Frans Timmermans – former Dutch Foreign Minister – was labelled the first-ever ‘First Vice-President’. The move made political sense for Juncker, who announced that Timmermans would play a central role in the renegotiation of the UK’s status prior to the referendum promised by Cameron, with whom Juncker had an obviously scratchy relationship. In his EP confirmation hearing, Timmermans wooed the UK by promising to cut red tape, extolling Winston Churchill, and calling the UK ‘the birthplace of common sense’.¹³ Revealingly, Timmermans also took pains to be deferential to MEPs, hailing how Juncker’s was ‘the first Commission born in the European Parliament’.¹⁴

Tapping Timmermans – a Socialist - to be First VP also allowed Juncker to give his Commission a semblance of political balance. VP appointments were split between the Socialist and centre-right European People’s Party (EPP) with 3 each and 1 for the Liberal Andrus Ansip, a former Estonian Prime Minister. Still, the College was dominated by the EPP, with exactly half (14) of its members linked to the centre right, as compared to only 8 Socialists and 5 Liberals (see Table 1), a result that (again) the new intergovernmentalism would predict as a way for EU states to control or constrain the Commission. By the numbers, the 2014 EP election yielded a Parliament made up of 30 per cent EPP and 25 per cent Socialist MEPs (and only 7 per cent Liberals), with Socialists actually winning slightly more votes overall.¹⁵

Juncker’s limited influence over national selections allowed him to disclaim responsibility for loading the College with members of his own political family. But several nominations caused him political headaches. One was Cameron’s choice of (Lord) Jonathan Hill, a backroom operator in the UK Conservative party who was almost unknown even in his own country. Cameron lobbied for Hill to be given a major portfolio and Juncker assigned him the financial services brief of cardinal importance to the City of London. MEPs gave Hill a rough ride, hauling him back for a second confirmation hearing

after he was lacklustre in his first. Subsequently, however, Hill was nodded through with the proviso that enforcing EU rules on bankers' bonuses (challenged by the UK in the European Court of Justice) would be assigned to the Czech Justice Commissioner, Věra Jourová.

Then there was Slovenia's Alenka Bratušek, who nominated herself for the Commission during her final days as Prime Minister after losing her party's leadership. Her self-nomination had failed even to find majority support in her own cabinet, forcing her to use special rules of procedure allowing absent ministers to be counted as voting in favour. Nonetheless, Juncker made Bratušek Vice President for Energy Union and defended her as a former premier who had saved her country from an EU bail-out.¹⁶ He thus did himself no favours when Bratušek gave a dreadful performance in her EP hearing. After meeting with leaders of EP party groups, Juncker accepted Slovenia's fresh nomination of Violeta Bulc, an entrepreneur with only weeks of experience in the post-Bratušek government. Uncannily, Bulc's nomination had to be rammed through the Slovenian cabinet using the same special procedure as Bratušek's (Keating 2014b).

Bulc's inexperience ruled her out for the energy job. In 'another gamble' by Juncker (Keating 2014c), the Slovakian nominee, Maroš Šefčovič, was shifted to energy with Bulc offered transport. In some ways, Šefčovič seemed a safe choice after serving as a competent Commissioner for Administration in Barroso II. Yet, his links were close to Slovakia's centre-left government led by Robert Fico, an avowed ally of Putin's Russia and dissenter on EU climate and energy policy. Under Barroso, Šefčovič twice had voted the Slovak line in opposing proposed emissions reductions.

In the end, Šefčovič and Bulc were both confirmed. However, Juncker had to appease the Parliament's Transport Committee which declared itself 'very disappointed with the reshuffle'.¹⁷ Juncker thus added transport to Šefčovič's 'mission letter', a set of instructions sent to Commissioners outlining

their duties and – in the case of Šefčovič and other VPs - which other Commissioners' work they would 'steer and coordinate'.¹⁸

Juncker's mission letters (all around 6 pages long) aimed to make clear what would be different about his Commission. Specifically, it would be a 'political Commission': 'I want the new Commission to be a strong and *political* team', working on the basis of guidelines that are 'somewhat akin to a *political* contract that I concluded with the European Parliament', with the Commission's work focused on 'the priorities of the *Political* Guidelines', and so on.¹⁹ All stressed the special role of Timmermans, warning that his approval was required for 'full *political* ownership' of any proposed new initiative.

Juncker's mission letters as well as his first communications to DGs (2014a; 2014b) decreed 10 projects listed in his Political Guidelines on which his Commission would focus. Yet, the inventory read like a laundry list. It combined specific objectives – a Transatlantic Trade and Investment Partnership (TTIP) with the United States, a Capital Markets Union, and a €300 billion investment plan – with categorically vague ones: 'making the EU a stronger global actor' or 'bringing about a Union of democratic change' (Commission 2014a: 2).

Still, Juncker was clear that he had 'decided to organise the new Commission different[ly] from its predecessors...to overcome silo mentalities'. Vice-Presidents would oversee and coordinate the work of 'portfolio' Commissioners so as to 'help me exercise my presidential prerogatives' (Commission 2014a: 2). Each VP would lead a project team of Commissioners in areas such as 'Euro and social dialogue', 'energy union', or 'digital single market'. Vice-Presidents would *not* have DGs working under them and instead would rely on a beefed-up Secretariat-General, which would 'play an enhanced coordinating role for major initiatives' (Commission 2014b: 1).

Juncker was bold in seeking to solve the problem of an overlarge College, but by no means was he the first to try. Santer created 6 '*Groupes de Commissaires*' to coordinate related policies, but they took no actual decisions and merely exchanged information. Prodi could claim some credit for a 'strange and complicated formula' (Piris 2010: 228) proposed at one point by the Convention on the Future of Europe, by which a sub-set of Commissioners could vote in the College with others participating as non-voters. Earlier, Prodi had proposed an inner cabinet of 10 VPs meeting weekly with exclusive rights to vote, with all other Commissioners relegated to once or twice-monthly 'political strategy' sessions. Both formulas died political deaths. Barroso made his own bid to create five 'clusters' of Commissioners in areas including competitiveness, external relations, and equal opportunities (Peterson 2012: 112). But none made the College any more cohesive, thus leading him to pull the Secretariat-General into his own orbit.

Juncker's formula broke genuinely new organisational ground and allowed for more strategic use of the Commission's powers. To illustrate, Mogherini was designated as responsible for all EU external affairs, including trade policy. Trade had never been within the remit of previous High Representatives, and Juncker's new system created the prospect, at least, that the EU's economic weight might be used (as rarely before) to support its general foreign policy agenda.

Of course, the VP system also threatened to blur responsibility. It left 'his Vice-Presidents potentially stranded without the support of their line Commissioners', and thus '[m]uch more than any political agenda, [Juncker's] political management skills are likely to define this Commission' (Global Counsel 2014: 2). As we show (below), Juncker's new formula has elicited mixed views from officials of a kind predictable when any administration embraces radical change. The question of whether it will work to make the Commission more efficient, effective and strategic is wrapped up in larger questions: what does it mean to be a *political* Commission? And was Juncker's intent to reassert the Commission's autonomy in the face of new intergovernmentalist constraints in the modern EU?

3. A 'Political' Commission?

An early reaction to Juncker's political Commission came from Barroso, who damned the idea with faint praise: 'I think the Commission has to be – and mine was – a political body. But it should not be a politicised or partisan body. I think the Commission should remain a political body, but my advice is to avoid partisan lines of fracture and polarisation' (quoted in Keating 2014a).

Plausibly, Juncker's vision may have followed from his selection via the *Spitzenkandidaten* system, which he claimed gave him more legitimacy and his College a mandate. But one senior Commission official poured scorn on these notions:

Juncker has a very party political agenda. The *Spitzenkandidat* was a very bad idea. Our mandate lacks legitimacy...We are confusing political messaging with our policy role. We have become too party political...we need to be more evidence-based, and a party political agenda is the opposite of that.²⁰

Another view held that any mandate from the EP was worth far less than one from the EU's most powerful member states, as had occurred in the past with the Kohl-Mitterrand alliance on monetary union or 'Merkozy' consensus during the Eurozone crisis (see Global Counsel 2014). With basic divisions between Paris and Berlin on the eurozone's evolution, and other large member states focused on national priorities (the UK on its 2016 referendum and Italy on budget flexibility), Juncker lacked any intergovernmental bargain on which to build a policy programme.

Nevertheless, senior officials were upbeat about the first half of the Juncker Commission. One head ('*chef*') for a portfolio Commissioner's *cabinet* noted:

A star chamber chaired by Timmermans has cut lots of proposals; more than ever before. Finally, we've got someone asking 'why are we doing this'?...We need a slimmed down agenda on jobs and growth, with every portfolio geared to how we get more. A political Commission means we're going to look at what is politically necessary and possible...We're going to focus on 2 or 3 political priorities.²¹

The verdict of a top official in the Secretariat-General was emphatic:

It's a revolution in the way the Commission is run – in a good way...previously, we had 27 portfolios all working in isolation. It was the silo mentality run riot...A 'political Commission'? I don't know what that means; it can be interpreted in many different ways. If it means political prioritisation, that's very welcome. If it means a party political orientation, then no: that etiquette doesn't travel across borders.²²

Another senior official insisted:

I actually do think stressing the political agenda gives us more legitimacy. I don't personally believe in the *Spitzenkandidaten* system, but it means the Commission can defend itself from its detractors...For example, in our assessments of the Italian, French and Belgian budgets, we treated them in a more flexible and thus political way, and not purely mechanically. Barroso couldn't do that because he lacked the legitimacy that Juncker has.²³

The new formula also provided Juncker flexibility to allocate dossiers to ensure neutrality. He thus appeased Cameron by giving Hill financial services, but also pacified the EP by stripping banker bonuses out of his portfolio. The VP system allowed him to clip the wings of the Economic and Financial Affairs Commissioner, France's Pierre Moscovici. Juncker required him legally (and uniquely) to submit assessments of national budgets together with Latvia's Valdis Dombrovski, a deficit hawk and VP for the Euro. The move made political sense as Moscovici previously served as French Finance Minister and the Commission was required to rule on the French budget only two weeks after its instatement in November 2014.²⁴

One of the Commission's Directors-General (most senior permanent officials) was even-handed:

I'm favourable to the VP system: it is a bold experiment that obviously depends on good will, but things were too 'siloed' before. It empowers the Sec-Gen enormously, with the result that I'm not unlikely to have some 35 year old twerp telling me what I should do in my portfolio. The VPs need to be authoritative, not authoritarian. If the new system damages collegiality within the College, well, that was all kind of myth in the past anyway.²⁵

A definitive verdict on Juncker's shake-up must wait until the end of his mandate, as does a clear analytical read on what it means to be a political Commission. The latter clearly has potential pitfalls, as illustrated when the College endorsed Stavros Dimas' candidacy for President of Greece in late 2014, since Dimas was a former Commissioner and his election (by the Greek parliament) 'could help

remove uncertainties around financial markets'.²⁶ Of course, Dimas' candidacy was rejected, forcing Greece to hold a snap election with the fiercely anti-austerity and eurosceptic Syriza party sweeping to power. Advocates of a political Commission thus have to be careful about what they wish for.

4. The Juncker Commission and the New Intergovernmentalism

What fate can we predict for Juncker's Commission? And what light might be shed by the new intergovernmentalism, or 'integration without traditional forms of delegation' (Bickerton *et al* 2015: 4-5), specifically to the Commission? As ever, a lot will depend on factors beyond the Commission's control.

One is the leak of 28,000 pages of confidential documents detailing tax deals that were cut between large multinationals and Luxembourg while Juncker was Prime Minister of the Duchy. Juncker insisted Luxembourg's tax authority had acted on an 'autonomous basis', but conceded that he was 'politically' responsible. With Luxembourg already under investigation by the Commission for sweetheart deals with Fiat and Amazon, Juncker promised new EU legislation to make such tax affairs more transparent. But one senior Commission official spoke for many in concluding: 'this could harm all of us...Juncker might say the wrong thing about it some day when he's being flippant or is angry. It could be a disaster'.²⁷

A second factor likely to determine the Commission's fate was the nature of the 'brain behind the brain' at the top. Numerous interviewees agreed 'we have a weak President with a strong chief of staff',²⁸ who was – by most accounts – 'brilliant intellectually but with no people skills'.²⁹ Juncker's *chef*, Martin Selmayr, managed the former's campaign to become the centre-right *Spitzenkandidat* after serving in top positions in the Commission and posts linked to the German CDU.³⁰ Not since Pascal Lamy had dominated the Commission as Jacques Delors' number two did any *chef* appear to wield such untrammelled influence. One illustrative incident concerned Juncker's clean-up after the

Bratušek mess.³¹ After her nomination was withdrawn, Selmayr passed Šefčovič in a corridor of the Berlaymont (the Commission's headquarters) and told him that Juncker wanted to shift Šefčovič from transport to VP for Energy Union. Mindful that he had already sat his EP confirmation on transport, Šefčovič asked Selmayr to arrange a meeting with Juncker to discuss the new proposal. The following morning, Šefčovič arrived at his office to find an email from Selmayr indicating that Juncker would announce the Slovak's nomination as VP for Energy Union that day at a 12 noon press conference unless he urgently objected.

One official with *cabinet* experience warned that 'people are afraid of Martin. He's a symbol of unaccountable power in the hands of people who are inexperienced and don't know the house'.³² Another cited an early dispute between Juncker and the new Trade Commissioner, the Swede Cecilia Malmström, about the ultra-sensitive Investor State Dispute Settlement (ISDS) in the TTIP negotiations, with Selmayr apparently doctoring written evidence in response to MEP questions during Malmström's confirmation which the latter was forced to disavow. An official close to Malmström described the flap as 'all Martin...he's tried to push through a lot before Commissioners found their feet'.³³

Juncker clearly relied heavily on Selmayr. One reason why was that Timmerman's performance was mixed at best. While credited with good communication skills, one *chef* observed: 'he's doesn't want to talk to officials. He only talks to ministers'.³⁴ Another (Sec-Gen) official was scathing: 'He says nothing in 5 languages. He...works on the basis of anecdotal evidence and doesn't invest the time needed in knowing the files'.³⁵ One result was that power was centralised in Juncker's office, often in the hands of Selmayr. A *cabinet* official involved in the 'Five President's Report' (on strengthening monetary union³⁶) claimed: 'Martin wrote it himself. Dombrovskis [VP for the euro], the poor guy, had to present it to the media even though he had nothing to do with it'.³⁷ Meanwhile, Timmermans' role suggested that delegation to VPs was strictly limited: 'to say he's the most powerful VP isn't

saying much. They're mostly being used to sell [Commission] initiatives....Martin has "done" Greece himself and he will "do" BREXIT [the UK's demands for reforms] himself'.³⁸

All of this might be viewed as the normal *sturm und drang* of a new Commission bedding down, especially a 'political' one. Yet, if Selmayr was the power behind the throne, it pointed to another fate-determining factor for Juncker's Commission: how German-dominated it appeared. By one estimate, no fewer than 41 Germans served in Commission *cabinets* in the Juncker Commission, up from an approximate (fluctuating) total of 22-7 during the Barroso decade.³⁹ This result no doubt reflected the wish of Commissioners to have a political line to Berlin, the centrality of Merkel to Juncker's chosen projects, but also – as alleged by one official – how 'Martin [Selmayr] insisted on them, even though many are very inexperienced'.⁴⁰

But it also reflected how German-dominated the EU had become more generally (see Beck 2013). With the UK in such bad odour, France's weak economy, and crucial decisions still to be made on Banking Union and the refugee crisis, Merkel and Berlin were essential players. One official claimed a 'Germanification of the EU's institutions. A sort of cultural creep. The Germans just don't get the services sector, they only do manufacturing...In a sense, the Germans don't really "do" markets, but still think what they're doing is universally valid'.⁴¹ Another suggested that the EP was 'also very German-dominated. The German EP groups are very cohesive in relative terms'.⁴² The upshot was that Juncker's fortunes were likely to be shaped by decisions taken in Berlin as much as in Brussels.

A final determinant of Juncker's success is how his political agenda plays out in practice. Focusing on a limited number of priorities inevitably meant others falling by the wayside. A focus on jobs and growth made sense, but at what cost to environmental protection or climate change? Juncker's political messaging gave no hint that either would be a prime concern. Meanwhile, his lack of influence over nominations to his College meant accommodating peculiar characters. A bird-

shooting Maltese, Karmenu Vella, was designated Environment Commissioner. A Spaniard with links to the oil industry, Miguel Arias Cañete, got climate change. It did not require much cynicism to suspect that one reason Juncker opted for a new system of empowering VPs was to ensure that these and other Commissioners toed the party line.

At first blush, Juncker's political Commission appears to fly in the face of the new intergovernmentalism as a theoretical paradigm. Bickerton *et al* (2105) portray the Commission as losers in the advance of cooperative solutions that eschew traditional methods of integration. Consensus and deliberation have become ends in themselves, even if the Commission (under Barroso) was often complicit in the change. Instead of delegating prerogatives to the Commission, EU member states now delegate to *de novo*, often intergovernmental bodies. The result is a state of disequilibrium based on a 'pro-integration consensus that has had to be institutionally shielded from growing public disenchantment with public policy outcomes' (Bickerton *et al* 2015: 37).

An audit of how the Commission's evolution fits with the hypotheses of the new intergovernmentalism (Peterson 2015), let alone a critique of the paradigm's credibility more generally (see Schimmelfenning 2015), are not possible here. Still, two points – one about the Commission's role and the other about how we define intergovernmental – arise from analysis of the Juncker Commission's first years. First, Commission action is clearly needed to deal with the EU's crises, as illustrated above all by its politically noxious but nonetheless approved September 2015 proposal on sharing out an estimated 120,000 migrants arriving in Greece, Italy and Hungary⁴³ (even if it was swiftly overtaken by events). Juncker's forcing of a vote on quotas as well as his personal investment in the Greek crisis led one official to contend: 'this Commission takes political risks in a way Barroso never did...Juncker is far more ambitious. Barroso never would've proposed quotas'.⁴⁴

Explicitly tasking the Commission with political objectives and claiming a mandate from the EP was always a high risk strategy. Yet, given the need to cope with multiple crises, Juncker could argue that his Commission *had* be a political one, and it was possible to credit him with admitting as much. An illustrative example was the Commission's need to judge whether Poland – after the election of an ultra-nationalist Law and Justice party government in 2015 – had violated the terms of the EU Treaty by packing Poland's top court and state-run media with party loyalists. A 'nuclear option' for Juncker's Commission was to strip Poland of its right to vote in the Council on EU laws.⁴⁵ One of Juncker's top advisors argued 'he will sometimes lead on process like a Prime Minister. He won't wait for consensus but will push for it, doing things as a [head of] government does'.⁴⁶

Second, considerable evidence suggests that new intergovernmentalist delegation has *not* weakened the Commission. A study of budget surveillance and banking union finds the Commission 'more proactive than much of the literature suggests', and rejects any loss of its 'influence, authority, initiative and effectiveness...quite the contrary' (Savage and Verdun 2016: 114). Meanwhile, the Commission and *de novo* agencies have formed 'tight relationships', colluded in task expansion where the Commission previously was weak, and produced 'a centralization of EU executive power' (Egeberg *et al* 2015: 609-10). Even in social policy, entrepreneurship by the Commission has 'considerably strengthened its oversight and constraining powers' but in 'a new form of hybrid governance that combines political intergovernmentalism and technocratic supranationalism' (Crespy and Menz 2015: 765).

The latter point suggests a need to redefine 'intergovernmental'. Credibly, the supranational v. intergovernmental dichotomy describes a debate that reached its height during the Delors era, and is now confined to the past. A paradigm shift in the way the EU works may well have occurred post-Maastricht. But the Commission often has seemed complicit in it. Not only by gauging what the political traffic will bear (as under Barroso), but (under Juncker) being 'more connected to the political process'⁴⁷ (in the words of one his advisors) and influencing debates in the European Council, where

Juncker's experience far out-stripped that of Barroso. One indicator of this connection was that no fewer than 90 per cent of the Juncker College were members of their state's governing parties, the highest share in the Commission's history.⁴⁸ None of this is to deny that the Commission and European Council remain rivals in a kind of 'competitive cooperation', but one in which they are 'joint agenda setters' (Bocquillion and Doebbels 2014). What is new about the new intergovernmentalism is that simple binaries about who wins or loses when European integration advances are no longer helpful.

Juncker will have to pick his battles carefully. Still, his Commission already has begun to make its mark in ways that flesh out what the new intergovernmentalism might look like and the role of the Commission in it. The Commission appears more closely linked to EU national capitals, yet pushing the policy agenda itself in an EU that is no longer moving towards federation but is, '[p]erhaps ironically...more involved...in the exercise of core state powers' (Genschel and Jachtenfuchs 2016: 55).

CONCLUSION

We have ranged widely in investigating what may be distinct about the Juncker Commission. We can be confident about some things: this is the most explicitly *political* Commission ever, the new VP system is a radical departure, and the College's links to national capitals are more direct. We also have evidence to sustain three more general points.

The first reflects but also extends beyond Juncker. The EU appeared to equip its institutions with genuine *leaders* in 2014 after previously appointing (to be charitable) unthreatening figures to its top posts. Van Rompuy's successor as European Council President – the former Polish Prime Minister (2007-14), Donald Tusk – emerged as 'crisis-manager-in-chief', coaxing tough agreements on Greece (once by refusing to allow Merkel and French President François Hollande to leave the room) and urging European liberals to be 'tough and determined not to become more like right-wing populists, but to protect Europe against them'.⁴⁹ Tusk's role in brokering a result to the UK renegotiation was active and essential. By necessity, Mogherini operated more in the background but won plaudits for

her chairing of the negotiations that produced curbs on Iran's nuclear programme. In short, the EU equipped itself with top job heavyweights in 2014.

Second, it is easy to forget how diverse the enlarged EU has become. Its mosaic of national political cultures reflect, above all, widely varying democratic experiences. Consider the farcical process by which Slovenian candidates for the Commission were nominated. In reflecting on what 'intergovernmental' now means, we might note that Šefčovič – previously a career diplomat – ran first on a list of prospective MEPs for Fico's Slovakian Party of the Democratic Left in the 2014 EP election before being reappointed as Commissioner. Ponder the irony of Jourová's responsibility for policing limits on bankers' bonuses, a job she no doubt could not have imagined holding while in a Czech prison on (apparently) trumped up corruption charges.⁵⁰ Then there's the perceived political need for Cameron to appoint a faceless unknown as UK Commissioner. Juncker deserves sympathy for cobbling into a College such a diverse crew of both big beasts and neophytes. As Barroso said of building his College, having never met many of its nominees, 'it is like a blind date' (quoted in Peterson 2012: 108).

A final point is theoretical. Our ability to describe, explain and predict the evolution of European integration using theories from the past is challenged by how unprecedentedly crisis-ridden the EU has become. The new intergovernmentalism 'does not claim to be a new grand theory of regional integration' (Bickerton *et al* 2015: 45), but its hypotheses shed important light on the Commission or at least encourage us to investigate it in novel ways. To illustrate, Hartlapp *et al* (2014) portray the Commission as very much a political actor as well as a *system* that both influences and is influenced by a diverse array of political currents. Perhaps it has always been so. Now – by necessity – the Commission is more in the thick of political debates that have potentially profound consequences. To influence these debates and push for political solutions, it by definition must be more closely linked to national EU capitals and accept that its days as an 'engine of integration' are over. Finally, we might

conclude that the Commission – and EU more generally – are adapting, or at least trying to do so, to previously unimaginably difficult circumstances. The performance of Juncker’s political Commission is likely to go far towards determining Europe’s political future.

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¹ See Bruun *et al* 2014; Gallagher 2014; Majone 2014; Peet and LaGuardia 2014; Crespy and Menz 2015; Phinnemore 2015; Savage and Verdun 2016.

² Lisbon (Article 17 (7) TEU) gives the EP the right to 'elect' the President of Commission as proposed by the European Council (of Heads of State and Government), whose proposal – by qualified majority voting – must take into account the results of EP elections. Previously, the EP had the right to 'approve' the nomination put forward by the European Council.

³ The Berlin summit's Presidency Conclusions stated: 'The European Union needs, as soon as possible, a strong Commission capable of taking action...the next Commission ought to give urgent priority to launching a far reaching programme of modernisation and reform' (http://www.europarl.europa.eu/summits/ber1_en.htm).

⁴ Piris' (2010) figures relate to an EU of 27 since he was writing prior to Croatia's accession in 2013.

⁵ Interview, 7th January 2015.

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- ¹² See BBC News, 'Key EU jobs go to Italy and Poland', <http://m.bbc.co.uk/news/blogs-eu-28999186>.
- ¹³ Quoted in *Financial Times*, 9 October 2014.
- ¹⁴ Quoted in Global Counsel (2014: 1). The lead author of this 'Insight' briefing is Stephen Adams, a top advisor to Peter Mandelson when he was EU Trade Commissioner.
- ¹⁵ Juncker's was not the first College accused of political imbalance. Barroso's first Commission had 13 Christian Democrats, 6 Socialists and 8 Liberals (the latter very significantly over-represented).
- ¹⁶ *Financial Times*, 9 October 2014.
- ¹⁷ Michael Cramer, German Green MEP, quoted in Keating 2014c.
- ¹⁸ Mission letters at http://ec.europa.eu/commission/2014-2019_en.
- ¹⁹ Emphases added.
- ²⁰ Interview, 7th January 2015.
- ²¹ Interview, 7th January 2015.
- ²² Interview, 8th January 2015.
- ²³ Interview, 8th January 2015.
- ²⁴ See *Financial Times*, 30 September 2014.
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- ²⁶ Annika Breidhardt, a Commission spokesperson quoted in *Euractiv*, 10 December 2014; <http://www.euractiv.com/sections/euro-finance/european-commission-officially-backs-government-candidate-greek-elections>.
- ²⁷ Interview, 7th January 2015. Three co-defendants went on trial in Luxembourg for the leak of the documents in April 2016, even as their actions were backed by the French Finance Minister and nearly 130,000 citizens who had signed an on-line petition of support. See BBC News, 'France backs defendant as LuxLeaks trial starts', 26 April; <http://www.bbc.co.uk/news/world-europe-36135626>.
- ²⁸ Interview, 8th January 2015.
- ²⁹ Interview, 7th January 2015.
- ³⁰ A strikingly self-promotional copy of Selmayr's CV is available at <http://www.europainstitut.de/index.php?id=1166&L=1>.
- ³¹ This account of events was confirmed by 4 interviewees.
- ³² Interview, 7th January 2015.
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- ³⁴ Interview, 20th October 2015.
- ³⁵ Interview, 3rd July 2015.
- ³⁶ See http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf.
- ³⁷ Interview, 3rd July 2015.
- ³⁸ Interview, 20th October 2015. Indicative of the latter is that Selmayr was credited with devising the UK's 'emergency brake' on EU migrants' access to benefits for 7 years (since the UK did not opt for 7-year transitional controls on east European migrants after the 2004 enlargement) as part of Cameron's renegotiation.
- ³⁹ Author's own calculations based on data available at: https://ec.europa.eu/commission/2014-2019_en.
- ⁴⁰ Interview, 7th January 2015.
- ⁴¹ Interview, 7th January 2015.
- ⁴² Interview, 9th January 2015.

⁴³ See BBC News, 'Migrant Crisis: EU Agrees Disputed Quota Plan', <http://www.bbc.co.uk/news/world-europe-34329825>; see also http://europa.eu/rapid/press-release_IP-15-5700_en.htm.

⁴⁴ Interview, 3 July 2015.

⁴⁵ *Financial Times*, 19 May 2016.

⁴⁶ Interview, 20 October 2015.

⁴⁷ Interview, 20 October 2015.

⁴⁸ Figures from <http://blogs.lse.ac.uk/euoppblog/2014/11/03/jean-claude-junckers-new-european-commission-is-the-most-politicised-in-the-institutions-history/>.

⁴⁹ Quoted in *The Economist*, 31st October 2015, p.42.

⁵⁰ See *Financial Times*, 27 September 2014.